

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1550

House Bill No. 1478

by deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 63 is amended by deleting Chapter 15 in its entirety.

SECTION 2. Tennessee Code Annotated, Title 63, Chapter 17, is amended by designating the existing sections as Part 1 and by adding Sections 3 through 24 of this act, inclusive, as new Part 2.

SECTION 3. As used in this part, unless the context otherwise requires:

(1) "Apprentice licensee applicant" means any person who is registered with the council and is engaged in an approved licensing program, and who is sponsored by a hearing instrument specialist duly licensed in this state, and the apprentice licensee applicant shall meet the qualifications of Section 7 of this act;

(2) "Apprentice program" means eighty (80) hours of prescribed coursework under the direct supervision of a hearing instrument specialist, with such coursework pertaining to all aspects of hearing instrument dispensing;

(3) "Board" means the board of communication disorders and sciences, created by § 63-17-104;

(4) "Council" means the council for licensing hearing instrument specialists;

(5) "Division" means the division of health related boards in the department of health;

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1550

House Bill No. 1478

(6) "Hearing instrument" means any instrument or device designed for or represented as aiding, improving or correcting defective human hearing and any parts, attachments or accessories of such an instrument or device;

(7) "Licensed hearing instrument specialist" means any person licensed by this part who has passed a council approved psychometrically-sound examination for hearing instrument specialists;

(8) "Practice of dispensing and fitting hearing instruments" includes the evaluation or measurement of the powers or range of human hearing by means of an audiometer and the consequent selection or adaptation for sale of hearing instruments intended to compensate for hearing loss, including the appropriate instructions, consultations, suggestions, recommendations or opinions related to this practice, including the making of an impression of the ear, or an ear mold; and

(9) "Sell" or "sale" includes any transfer of title or of the right to use by lease, bailment or any other contract, either oral or written, except wholesale sales to distributors or dispensers.

SECTION 4. (a) There is hereby created a council to be known as the "council for licensing hearing instrument specialists," with the duties and powers as herein provided.

(b) The council shall consist of five (5) members who shall possess the following qualifications:

(1) Three (3) members shall be qualified hearing instrument specialists and fitters of hearing instruments who have been duly licensed as such in Tennessee, and who are certified

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1550

House Bill No. 1478

by the National Council for Certification - Hearing Instrument Sciences. Such members may be appointed by the governor from a list of qualified nominees submitted by the Tennessee Hearing Aid Society;

(2) One (1) member shall be a physician who has been duly licensed to practice medicine in Tennessee, and who has received certification from the American Council of Otolaryngology. Such member may be appointed by the governor from a list of nominees submitted by the Tennessee Medical Association;

(3) One (1) member shall be a person who has been a user of hearing instruments for a period of at least five (5) years preceding his appointment to the council, and who shall never have been engaged in the practice of hearing instrument dispensing and fitting, audiology or medicine. Such member shall be appointed by the governor; and

(4) In order that the terms may be appropriately staggered, initial appointments to the council for licensing hearing instrument specialists are for the following terms: one member appointed pursuant to subdivision (b)(1) shall be appointed to a term of one (1) year and the other members appointed pursuant to subdivision (b)(1) shall be appointed to terms of two (2) years; the member appointed pursuant to subdivision (b)(2) shall be appointed to a term of three (3) years; and the member appointed pursuant to subdivision (b)(3) shall be appointed to a term of four (4) years. Thereafter each member appointed to the council shall be appointed to a term of five (5) years. No person is eligible to serve successive terms on the council; provided, that those members appointed to a one (1) or two (2) year term, under the provisions of this

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1550

House Bill No. 1478

subsection, are eligible to succeed themselves for one (1) successive five (5) year term. In the event of a vacancy on the council, the governor shall appoint a person qualified under the appropriate subdivision of this subsection to fill the unexpired vacancy; provided, that such appointment, if not effective within sixty (60) days, shall be filled by the council. The initial appointments to the council shall include the current and immediate past board chairmen of the licensing board of hearing aid dispensers. In making appointments to the council, the governor shall strive to ensure that at least one (1) person serving on the council is sixty (60) years of age or older and that at least one (1) person serving on the council is a member of a racial minority.

(c) Each member of the council shall receive fifty dollars (\$50.00) per diem expenses when actually engaged in the discharge of his official duty, and in addition, shall be reimbursed for attending any meeting of the council within this state, in accordance with the provisions of the comprehensive travel regulations promulgated by the department of finance and administration, and approved by the attorney general and reporter.

(d) Such council shall be administratively attached to the board of communications disorders and sciences.

SECTION 5. The powers and duties of the council are to:

(1) Supervise and administer qualifying examinations to test the knowledge and proficiency of applicants for a license;

(2) License persons who apply to the council and who are qualified to practice the fitting of hearing instruments;

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1550

House Bill No. 1478

(3) Purchase and maintain or rent audiometric equipment and facilities necessary to carry out the examination of applicants for license;

(4) Issue and renew licenses;

(5) Deny, suspend or revoke licenses pursuant to this part;

(6) Appoint representatives to conduct or supervise the examination of applicants for license;

(7) Designate the time and place for examining applicants for license;

(8) Make and publish rules and regulations not inconsistent with the laws of this state which are necessary to carry out the provisions of this part. All rules relating to hearing instrument specialists shall be initiated and adopted by a majority of the members of the council of hearing instrument specialists and then shall be approved by a majority of the members of the board.

(9) Require an annual calibration of audiometric equipment;

(10) Provide all examinations required by this part. The National Board for Certification of Hearing Instrument Sciences (NBC-HIS) examination is the accepted examination for licensure. The council may contract with other testing organizations for equivalent examinations;

(11) Establish minimum requirements of test procedure and test equipment to be used in the fitting of hearing instruments, also the retention of records of all fittings;

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1550

House Bill No. 1478

(12) Inspect the facilities or records, or both, of persons who practice the fitting and selling of hearing instruments, upon a showing of probable cause of a violation of the provisions of this part; and

(13) Require lists, set standards and approve programs for trainees as provided in § Section 7 of this part and this section.

SECTION 6. The council shall meet at least once each year at a place and time determined by the chairman. The council shall also meet at such other times and places as may be appropriate to carry out the purposes of this part.

SECTION 7. (a) No person shall engage in the sale of or practice of dispensing and fitting hearing instruments or display a sign or in any other way advertise or hold himself out as a person who practices the dispensing and fitting of hearing instruments unless direct hands-on testing and follow-up services are provided to persons to whom the hearing instrument specialist has dispensed and/or sold a hearing instrument, and he holds a current, unsuspended, unrevoked license issued by the council as provided in this act.

(b) The license required by this section shall be kept conspicuously posted in his principal office or place of business at all times.

SECTION 8 (a) This part shall not be construed to prevent any person who is a medical or osteopathic physician licensed to practice by the board of medical examiners from treating or fitting hearing instruments to the human ear.

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1550

House Bill No. 1478

(b) It is lawful for any person, who meets the requirements of Sections 7 and 9 of this part and who is listed as an apprentice licensee applicant with the council, and who is under the direct supervision of a sponsoring licensed hearing instrument specialist, to perform any of the services or acts included in the definition of hearing instrument dispensing and fitting as contained in this part; provided, that such person does so under the direct supervision of the licensed hearing instrument specialist and with the licensed dispenser making final selection and fitting to the client. No licensed dispenser shall supervise more than two (2) such apprentice licensee applicants or apprentice licensees combined at the same time.

(c) This part shall not be construed to prevent any person who is an audiologist licensed by the board of communication disorders and sciences from practicing audiology as defined in Section 63-17-103(5)(A), nor to prevent any person who is a speech-language pathologist licensed by the board of communication disorders and sciences from practicing speech-language pathology as defined in Section 63-17-103(7).

SECTION 9. (a) An applicant for a license shall:

- (1) Be at least eighteen (18) years of age;
- (2) Have an education equivalent to two (2) years of accredited college-level coursework; and
- (3) Be free of contagious or infectious disease.

(b) Such applicant shall pay a nonrefundable application fee as set by the council no later than forty-five (45) days in advance of the next scheduled examination.

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1550

House Bill No. 1478

SECTION 10. (a) Applicants must pass a state written and practical proficiency test for the apprentice license.

(b) The apprentice licensee shall function under the direct supervision of the sponsoring licensed hearing instrument specialist for a period of at least three (3) months after passage of the council proficiency test, and during such three (3) month period, the sponsoring licensed dispenser must make the final selection and fitting of the hearing instrument.

(c) During the apprentice period the apprentice licensee shall complete eighty (80) hours of prescribed coursework.

(d) The apprentice license will remain in effect no longer than one (1) year and cannot be renewed.

(e) Applicants for an apprentice license shall pay the council a nonrefundable examination fee as set by the council.

SECTION 11. (a) Upon the payment of an examination fee as set by the council, an applicant for a license who is notified by the council that he has fulfilled the requirements of Section 9 of this part shall appear at a time, place and before such persons as the council may designate, to be examined by written and practical tests in order to demonstrate that he is qualified to practice the fitting of hearing instruments.

(b) If such applicant can satisfy the council that he has successfully passed a written examination, whose contents are acceptable to the council, within ninety (90) days of his application for examination, the council may at its discretion waive such written examination.

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1550

House Bill No. 1478

(c) The council shall give at least one (1) examination of the type prescribed in this section each year, and such additional examinations as the volume of applications may make appropriate.

SECTION 12. (a) The examination provided in Section 11 shall consist of:

(1) Tests of knowledge in the following areas as they pertain to the fitting of hearing instruments:

(A) Basic physics of sound;

(B) The human hearing mechanism, including the science of hearing and the causes and rehabilitation of abnormal hearing and hearing disorders; and

(C) Structure and function of hearing instruments;

(2) Tests of proficiency in the following techniques as they pertain to the fitting of hearing instruments:

(A) Pure tone audiometry, including air conduction testing and bone conduction testing;

(B) Live voice or recorded voice speech audiometry, including speech reception threshold testing and speech discrimination testing;

(C) Effective masking;

(D) Recording and evaluation of audiograms and speech audiometry to determine hearing instrument candidacy;

(E) Selection and adaption of hearing instruments and testing of hearing instruments;

(F) Taking earmold impressions; and

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1550

House Bill No. 1478

(G) Other skills as may be required for the fitting of hearing instruments; and

(3) Tests of knowledge of the provisions and requirements of this part.

(b) The tests under this section shall not include questions requiring a medical or surgical education.

SECTION 13. (a) (1) Upon payment of an initial license fee as determined by the council, the council shall issue a license to each applicant who passes the examination. Such initial license shall be effective until July 31 of the next odd-numbered year.

(2) During the second year of a biennial renewal period, the initial license fee shall be one half (1/2) of the biennial renewal fee.

(b) The council may, in its discretion, license as a hearing instrument specialist, without examination, on the payment of a fee as set by the council, an applicant who is a hearing instrument specialist, certified, registered or licensed under the laws of another state or country, if the applicant's qualifications for certification, registration or licensure meet the licensure requirements in force in this state upon the date of his application for certification, registration or licensure in this state.

SECTION 14. Each licensee shall notify the council of any change of address of his place of business, within thirty (30) days of such change. Failure to give such notice shall be deemed just cause for disciplinary action by the council.

SECTION 15. The council shall issue, under the board's name, all licenses approved by the council and the board and shall maintain a registry of all license holders. It is the duty of the

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1550

House Bill No. 1478

council to review and approve the qualifications of applicants for certification or renewal as hearing instrument specialists.

SECTION 16. (a) (1) Each licensed hearing instrument specialist shall pay to the council a biennial renewal fee as set by the council, payable in advance, for the ensuing two (2) years.

(2) The council shall notify each licensee that such renewal is due.

(b) As a condition of renewal, the licensee shall be reexamined by the council and shall pay a reexamination fee as set by the council or shall submit proof of completion of an approved continuing education program. The reexamination shall consist of all of the areas required pursuant to Section 12 of this act.

(c) When any licensed hearing instrument specialist fails to pay the license fee within sixty (60) days after it becomes due, as provided in this section, the license of such person is automatically revoked at the expiration of the sixty (60) days after the renewal fee was required, without further notice or hearing.

(d) Any person whose license is automatically revoked as provided herein may make application in writing to the council for the reinstatement of such license and, upon good cause being shown, the council in its discretion may reinstate such license upon payment of all past-due renewal fees and upon further payment of a sum set by the council.

(e) Any person licensed to practice by the provisions of this part, who has retired or may hereafter retire from such practice in this state, shall not be made to register as required by this

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1550

House Bill No. 1478

part if such person files with this council, an affidavit on a form to be furnished by the council, which affidavit states the date on which such person retired from such practice and such other facts as tend to verify such retirement as the council deems necessary. If such person thereafter reengages in such practice in this state, such person shall apply for registration with the council as provided by this part, and shall meet other requirements as may be set by the council.

(f) (1) Notwithstanding any provision of this part to the contrary, the division, with the approval of the commissioner, shall establish a system of license renewals at alternative intervals which will allow for the distribution of the license workload as uniformly as is practicable throughout the calendar year. Licenses issued under the alternative method are valid for twenty-four (24) months, and expire on the last day of the last month of the license period. However, during a transition period, or at any time thereafter when the council determines that the volume of work for any given interval is unduly burdensome or costly, either the licenses or renewals, or both of them, may be issued for terms of not less than six (6) months nor more than eighteen (18) months. The fee imposed for any license under the alternative interval method for a period of other than twenty-four (24) months shall be proportionate to the annual fee and modified in no other manner, except that the proportional fee shall be rounded off to the nearest quarter of a dollar (25¢).

(2) No renewal application will be accepted after the last day of the month following the license expiration date under the alternative method authorized in this subsection.

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1550

House Bill No. 1478

SECTION 17. The fees relating to the practice of dispensing hearing instruments shall be set by the board in an amount sufficient to pay all of the expenses of the council as well as all of the expenses of the board that are directly attributable to the performance of its duties pursuant to the provisions of this act. Expenditures of the council for investigations and disciplinary actions shall be the financial responsibility of the licensees who are regulated by such council.

SECTION 18. (a) Any person who engages in the practice of dispensing and fitting hearing instruments shall deliver to each person supplied with a hearing instrument, by him or at his order or direction, a bill of sale which contains each of the following:

(1) The signature of the licensed hearing instrument specialist, the address of his regular place of business, and his license number and license expiration date;

(2) The make and model of the hearing instrument supplied and the amount charged therefor, and whether the hearing instrument is new, used or rebuilt;

(3) A clear statement of the terms of sale, including the provisions required by Section 17 of this act; and

(4) The name and address of the council and a statement that the council will receive complaints on any matter relating to the fitting and dispensing of hearing instruments.

(b) Any sale of a hearing instrument is subject to the same conditions and provisions as are prescribed by the United States food and drug administration and the federal trade commission.

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1550

House Bill No. 1478

SECTION 19. (a) Within thirty (30) days of the date of delivery, any purchaser of a hearing instrument from a licensee is entitled to return the hearing instrument for any reason; provided, that such instrument is returned in satisfactory condition, and such purchaser shall pay only reasonable charges for the hearing instrument and related services. Such return privileges apply only to a first-time purchaser of a hearing instrument.

(b) Charges to be imposed upon return of a hearing instrument as provided in subsection (a) shall be clearly stated in the bill of sale.

(c) This section shall not be construed to supersede any duly promulgated regulation issued by the federal trade commission.

SECTION 20. Any person sponsoring an apprentice licensee and/or apprentice licensee applicant under the provisions of this part shall be held responsible for the acts or omissions of his apprentice licensee and/or apprentice licensee applicant within the course and scope of his employment, during the apprenticeship, as well as his employees.

SECTION 21. Subject to the due process requirements of the Uniform Administrative Procedures Act, compiled in title 4, part 5, any person registered under this part may have his license denied, revoked or suspended for a fixed period to be determined by the council for any of the following causes:

(1) Conviction of an offense involving moral turpitude. The record of such conviction, or certified copy thereof from the clerk of the court where such conviction occurred or by the judge of such court, is sufficient evidence to warrant revocation or suspension;

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1550

House Bill No. 1478

- (2) Securing a license under this part through fraud or deceit;
- (3) Unethical conduct, gross and/or repeated acts of ignorance or inefficiency in the conduct of his practice;
- (4) Knowingly practicing while suffering with a contagious or infectious disease;
- (5) Use of a false name or alias in the practice of his profession; and
- (6) Violating any of the provisions of this part.

SECTION 22. (a) Except as otherwise provided by Section 16 of this act, no license issued pursuant to this part may be suspended, revoked, denied or renewal denied without a hearing before the council or its duly authorized trial examiner, if requested by the certificate holder or applicant, on due notice.

(b) Any action of the council taken pursuant to this part shall be in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, part 5.

SECTION 23.

- (a) A violation of this part is a Class B misdemeanor.
- (b) The council, with the approval of the board, may seek to enforce any provision of this part by petitioning a court of appropriate jurisdiction for an injunction to enjoin continuing violations of this part or by any other appropriate proceeding. No such proceeding is barred by any proceeding had or pending pursuant to Section 16 of this act, or by the imposition of any fine or term of imprisonment pursuant thereto.

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1550

House Bill No. 1478

SECTION 24. Upon the effective date of this act, any person who is a trainee, apprentice, or who has entered into a training program to become a licensed hearing aid dispenser, shall be eligible to receive a license as a hearing instrument specialist provided such person complies with all of the requirements of title 63, chapter 15, as it exists upon the effective date of this act.

SECTION 25. Tennessee Code Annotated, Section 63-17-101, is amended by deleting such section in its entirety and by substituting instead the following:

This chapter shall be known and may be cited as the "Licensure Act for Communication Disorders and Sciences".

SECTION 26. Tennessee Code Annotated, Section 63-17-103 is amended by deleting subdivision (3) in its entirety and by substituting instead the following:

(3) "Board" means the board of communications disorders and sciences;

SECTION 27. Tennessee Code Annotated, Section 63-17-103(5)(B), is amended by deleting the language "chapter 15 of this title" and by substituting instead the language "part 2 of this chapter".

SECTION 28. Tennessee Code Annotated, Section 63-17-103(5)(B), is further amended by deleting the language "hearing aid dispenser" and by substituting instead the language "hearing instrument dispenser"; and by deleting the language "hearing aids" and by substituting instead the language "hearing instruments".

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1550

House Bill No. 1478

SECTION 29. Tennessee Code Annotated, Section 63-17-104, is amended by deleting the language “board of examiners of speech language pathology and audiology” and by substituting instead the language “board of communications disorders and sciences”.

SECTION 30. Tennessee Code Annotated, Section 63-17-125, is amended by deleting the language “hearing aid” wherever it may be found and by substituting instead the language “hearing instrument”.

SECTION 31. Tennessee Code Annotated, Section 63-17-114(5)(A), is amended by deleting the period at the end of such subdivision and by substituting instead the following:

, and does not sell hearing instruments.

SECTION 32. Tennessee Code Annotated, Section 63-17-103(1), is amended by deleting subdivision (B) in its entirety and by substituting instead the following:

(B) Nothing in this chapter shall prevent or prohibit any hearing instrument specialist from employing and using such terms as “hearing aid center,” “hearing aid clinic,” “hearing instrument center,” or “hearing instrument clinic,” or any similar titles or description of services so long as the word “aid” or “instrument” is incorporated in any such title or description of service, and insofar as such terms do not connote qualifications or education for which the hearing instrument specialist does not have valid credentials, or do not imply rehabilitative or professional services which the hearing instrument specialist is not qualified to offer;

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 1550

House Bill No. 1478

SECTION 33. Tennessee Code Annotated, Section 63-17-103 is further amended by deleting subdivision (2) in its entirety.

SECTION 34. Tennessee Code Annotated, Section 63-17-102, is amended by deleting the language "and audiologists" and by substituting instead the language "and audiologists, and hearing instrument specialists,".

SECTION 35. Tennessee Code Annotated, Section 4-29-218(a), is amended by deleting item (3) in its entirety and by substituting instead the following:

() Council for hearing instrument specialists; created by Section 4 of this act;

SECTION 36. Tennessee Code Annotated, Section 4-29-220(a), is amended by deleting item (24) in its entirety and by substituting instead the following:

() Board of communication disorders and sciences;

SECTION 37. Tennessee Code Annotated, Section 63-17-102, is amended by deleting the language "audiology services" and by substituting instead the language and punctuation ", audiology and hearing instrument dispensing services".

SECTION 38. This act shall take effect July 1, 1995, the public welfare requiring it.